

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ISMAEL H. PADILLA,
Plaintiff,

v.

INTERNAL REVENUE SERVICE, et al.,
Defendants.

Case No. [24-cv-02982-PJH](#)

**ORDER DENYING MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 10

Plaintiff, a Texas state prisoner proceeding pro se, filed a civil action against a governmental entity. The court denied the case at screening and plaintiff has filed a motion for reconsideration that the court construes as a motion for relief from a judgment under Federal Rule of Civil Procedure 60(b).

Rule 60(b) lists six grounds for relief from a judgment. Such a motion must be made within a “reasonable time,” and as to grounds for relief (1) - (3), no later than one year after the judgment was entered. See Fed. R. Civ. P. 60(b). Rule 60(b) provides for reconsideration where one or more of the following is shown: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial; (3) fraud by the adverse party; (4) the judgment is void; (5) the judgment has been satisfied; (6) any other reason justifying relief. Fed. R. Civ. P. 60(b); *School Dist. 1J v. ACandS Inc.*, 5 F.3d 1255, 1263 (9th Cir.1993). Rule 60(b) provides a mechanism for parties to seek relief from a judgment when “it is no longer equitable that the judgment should have prospective application,” or when there is any other reason justifying relief from judgment. *Jeff D. v. Kempthorne*, 365 F.3d 844, 851 (9th Cir. 2004) (quoting Fed. R. Civ. P. 60(b)).

1 In this case, plaintiff sought court intervention in obtaining his economic impact
2 payment ("EIP") pursuant to the Coronavirus Aid, Relief, and Economic Security Act (The
3 "CARES Act"), Pub. L. No. 116-136, 134 Stat. 281 (2020) and *Scholl v. Mnuchin*, 494 F.
4 Supp. 3d 661 (N.D. Cal. 2020). Plaintiff was advised that he was not entitled to relief to
5 the extent he sought the court to compel the IRS to provide his EIP. The court in *Scholl*
6 found that the EIP could not be denied only because an individual was incarcerated.
7 However, the court was clear that it took no position on whether individual incarcerated
8 plaintiffs were owed the EIP, which is the relief sought in this case. That responsibility fell
9 to the IRS to make an individual determination. More importantly, funds cannot now be
10 distributed pursuant to the CARES Act. The CARES Act imposed a deadline of
11 December 31, 2020, for EIPs to be made or allowed. That deadline has passed, and no
12 more funds may be issued.

13 In this motion, plaintiff presents the same arguments from his complaint and fails
14 to put forth any newly discovered evidence or demonstrate any other grounds for relief.
15 Plaintiff's motion (Docket No. 10) is **DENIED**.

16 **IT IS SO ORDERED.**

17 Dated: August 14, 2024

18
19 /s/ Phyllis J. Hamilton

20 PHYLLIS J. HAMILTON
21 United States District Judge
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